

**ORDINANCE NO. 08-50**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 98 ENTITLED "ZONING", ARTICLE II. ADMINISTRATION, DIVISION 6. CONDITIONAL USE PERMITS, OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 98-181 ENTITLED "CONDITIONAL USE PERMITS" TO REQUIRE THE GRANT OF A CONDITIONAL USE PERMIT TO ALLOW THE USE OF PRIVATE SCHOOLS, CHARTER SCHOOLS, VOCATIONAL AND TECHNICAL SCHOOLS, POST-SECONDARY EDUCATION FACILITIES, COLLEGES AND UNIVERSITIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of May 14, 2008 recommended approval of this ordinance; and

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the specific purpose of this ordinance is to allow a private school, charter school, vocational school, technical school, post-secondary education facility, college or university only if the City approves such use pursuant to a conditional use permit by ordinance after an evaluation of the compatibility with surrounding uses, sufficient and adequate parking and traffic circulation pattern and appropriate setbacks and landscape buffer and/or fencing or wall to minimize any adverse impacts; and

**WHEREAS**, the City finds that the recent expansion of private schools and charter schools into existing industrial and commercial areas require the City to evaluate whether the proposed use has sufficient and adequate parking for automobiles and school buses and whether the traffic circulation pattern, including the drop-off and pick-up of students, supports such use, among the other factors considered in Hialeah Code § 98-181; and

**WHEREAS**, in particular, lack of parking and traffic congestion in the City especially during peak hours in the City, which may coincide with school-generated traffic, creates a systemic problem that requires scrutiny and careful consideration, including the opinions and viewpoints from neighboring property and business owners and traffic studies, if necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 98 entitled "Zoning", Article II. Administration, Division 6. Conditional Use Permits, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read, by revising Hialeah Code § 98-181 entitled "Conditional use permit", as follows:

## **Chapter 98**

### **ZONING**

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## **ARTICLE II. ADMINISTRATION**

\* \* \*

### **DIVISION 6. CONDITIONAL USE PERMITS**

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#### **Sec. 98-181. CUP conditional use permit.**

There shall be created and established a conditional use permit to be known as CUP conditional use permit:

- (1) CUP conditional use permit will follow the subject property, regardless of ownership, or will be limited to specific number of years and the conditions of use.
- (2) CUP conditional use permit shall be used in connection with uses that are permitted within the zoning district that are deemed to have

extraordinary impacts with the surrounding neighborhood or area. The following uses would require a conditional use permit:

- a. Cemeteries.
- b. Community correctional centers or prisons.
- c. Public garages (lots and/or structures).
- d. Funeral homes.
- e. Hospitals.
- f. Houses of worship.
- g. Hotels and motels.
- h. Child day care facilities that are not state-licensed or state-registered family day care homes on property zoned R-1 (one-family district).
- i. Private schools, charter schools, vocational and technical schools, and post-secondary education facilities, colleges and universities.

(3) The applicant requesting a conditional use permit must have a legal interest in the property or obtain permission from the property owner as evidenced by the properly executed affidavit.

(4) The growth management advisory committee (GMAC) shall consider the following factors in making its recommendation to the planning and zoning board:

- a. Compatibility with surrounding uses.
- b. Sufficient and adequate parking and traffic circulation pattern.
- c. Appropriate setbacks and landscape buffer and/or fencing or wall to minimize any adverse impacts.

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**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5: Severability Clause.**

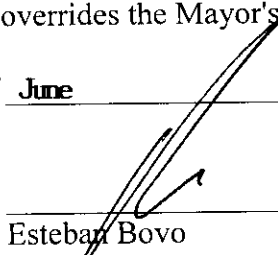
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6:     Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED AND ADOPTED this 10th day of June, 2008.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
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Esteban Bovo  
Council President

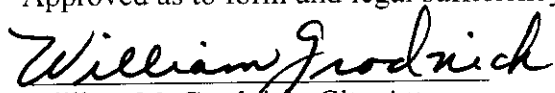
Attest:

Approved on this 12 day of July, 2008.

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".